



In the United States Patent and Trademark Office

Applicant : Mary Ann Caneba
Appn. No. : 09/858,012
Filed : May 14, 2001
Title : Customizing Pack Carrier
Grp./A.U. : 3727
Examiner : Stephen Cronin

RECEIVED
MAY 11 2004
TECHNOLOGY CENTER R3700

Date of Mailing: May 4, 2004

Honorable Commissioner for Patents
Alexandria, Virginia 22313

**Notice Of Abandonment Sent 4/06/2004 To Applicant Believed
To Be sent In Error**

Sir:

It is believed that the applicant was sent a Notice of Abandonment in error for the above referenced patent application.

On Nov. 07, 2003 (within the 3-month statutory period after the sending of the final OA), the applicant sent an RCE with the required Submissions and payment of \$375.00.

About three weeks thereafter, a Notice of Improper RCE was received by the applicant. A phone call made by the applicant to the Technology Center 3700 confirmed that the required current RCE fee is \$385. The payment sent was short by \$10.00.

Accordingly, by Express Mail on Dec. 02, 2003, per advise of Mr. Steve Marcus, the applicant sent \$65.00 - \$10.00 to cover the shortage and \$55.00 to buy a one-month response period extension of up to Dec. 07, 2003.

No communication regarding the RCE was sent to the applicant thereafter. Sometime in March, the applicant made a phone inquiry to the receptionist of Grp./A.U. 3727 regarding the status of the patent application. The applicant was told that the \$65.00 was considered received as of Dec.02, correcting the total payment for the RCE to be \$385 and a purchase of a one-month extension for \$55.00. The applicant was told that everything seems to be in order and that all the applicant had to do was wait.

Then, came the Notice of Abandonment.

After inquiring from the Examiner why the notice was sent, the applicant was advised to send to your office copies of relevant communication and canceled checks to prove that all the requirements for a proper RCE have been met. Please note that the communication covering the response to the notice for Improper RCE include a Certificate of Mailing of Dec. 02, 2003. A copy of the Express Mail receipt is also enclosed.

If the additional payment was not enough or if there was something else missing that was not indicated in the first Notice of Improper RCE, the applicant should have been promptly notified or sent a Second Notice of Improper RCE. In that way, she could have had the chance to act accordingly and avoid abandonment. At that time, she was still eligible to purchase some more extension time had it been necessary.

Therefore, the Notice of Abandonment must have been sent in error. According to the Examiner, it is possible

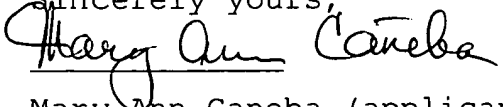
that the paperwork just did not get properly matched with the file (or something like that). After the paperwork gets properly matched with the file, the Notice of Abandonment should be rescinded, the application reinstated to pending status, and all the information in the RCE Submission entered in the system for examination.

Copies of the following documents are enclosed per the Examiner's advice:

- a) Completed RCE Transmittal form # PTO/SB/30(08-03),
- b) Notice of Improper Request for Continued Examination,
- c) Response to Notice of Improper RCE sent Dec. 02, 2003
(This is a printed copy from a computer file. The "original" was signed.),
- d) Express Mail receipt dated Dec. 02, 2003,
- e) Check# 4398 for \$375.00 that cleared the bank on 11/17/03,
- f) Check# 4416 for \$65.00 that cleared the bank on 12/10/03,
- g) Notice of Abandonment, and
- h) A self-addressed stamped return postcard.

Thank you for your consideration and prompt action regarding this very likely error.

Sincerely yours,



Mary Ann Caneba (applicant)

302 W. Jacker Ave.

Houghton, MI 49931

(906)482-6954

Certificate of Mailing:

I hereby certify that this correspondence and its referenced attachments will be deposited with the United States Postal Service by Priority Mail, postage prepaid, in an envelope addressed to:

Mail Stop RCE/Technology Center 3700

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

on the date below:

Date: May 04, 2004

Inventor's Signature: Margaret Canale



Commissioner for Patents
United States Patent and Trademark Office

P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

APPLICATION NUMBER

FILING DATE

FIRST NAMED APPLICANT

ATTY. DOCKET NO. TITLE

RECEIVED
MAY 11 2004
TECHNOLOGY CENTER R3700

DATE MAILED:

NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION (RCE)

The request for continued examination (RCE) under 37 CFR 1.114 filed on 11/7/03 is improper for reason(s) indicated below:

- ☐ 1. Continued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d). An RCE cannot be treated as a CPA.
- ☐ 2. Continued examination under 37 CFR 1.114 does not apply to an application that was filed before June 8, 1995. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b).
- ☐ 3. Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. If the RCE was accompanied by a reply to a non-final Office action, the reply will be entered and considered under 37 CFR 1.111. If the RCE was not accompanied by a reply, the time period set forth in the last Office action continues to run from the mailing date of that action.
- ☐ 4. The request was not filed before payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing either a petition under 37 CFR 1.313 to withdraw this application from issue, or a continuing application under 37 CFR 1.53(b).
- ☐ 5. The request was not filed before abandonment of the application. The application was abandoned, or proceedings terminated on _____. Applicant may wish to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.
- ☒ 6. The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.
- ☐ 7. The request was not accompanied by a submission as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.

Note: A continued prosecution application (CPA) under 37 CFR 1.53(d) cannot be filed in a utility or plant application. A CPA filed in a utility or plant application that has a filing date on or after June 8, 1995 will be treated as an RCE under 37 CFR 1.114. The request for a CPA in the instant application, however, has been treated as an improper RCE for the reason(s) indicated above.

A copy of this notice MUST be returned with any reply.

Direct the reply and any questions concerning this notice to:

Karen Cobb, Technology Center 3700

(703) 305-3577

In The United States Patent and Trademark Office

Applicant : Mary Ann Caneba
Appn. No. : 09/858,012
Filed : May 14, 2001
Title : Customizing Pack Carrier
Grp./A.U. : 3727
Examiner : Stephen Cronin

Copy

Date of Mailing: Dec. 2, 2003

Honorable Commissioner for Patents
Alexandria, Virginia 22313

Response to Notice of Improper Request for Continued Examination (RCE) filed 11/07/03

Sir:

The above referenced patent application is the subject of an RCE filed 11/07/03. The RCE filing was deemed improper because it was not accompanied by the correct fee set forth in 37 CFR 1.17(e).

The applicant was referred to Mr. Steve Marcus – phone # (703) 308-3872 last Wed. Nov. 26 regarding the action to be taken by the applicant to correct the improper filing of the RCE. Per Mr. Marcus' advise, the applicant is submitting the following to correct the error:

- a) \$10.00 – This amount covers the difference between the amount of \$375 sent with the RCE last 11/07/03 and the \$385 fee set forth in 37 CFR 1.17(e). The applicant was not aware of the very recent fee increase.
- b) \$ 55.00 – This amount covers the extension fee set forth in 37 CFR 1.17(a) pursuant to 37 CFR 1.136(a) for reply within the first extension month by a small entity (1.27(a)). The 3 –month statutory period of reply to the final Office action sent on 8/08/03 ended on 11/07/03. The first month extension runs from 11/08/03 to 12/07/03.

A check for the total amount of \$ 65.00 (\$10 + \$55) is enclosed.

- c) Copy of the Notice of Improper Request for Continued Examination (RCE).

Sincerely yours,

Mary Ann Caneba (applicant)
302 W. Jacker Ave.
Houghton, MI 49931
(906) 482-6954

original was signed

Certificate of Mailing:

I hereby certify that this correspondence and its referenced attachments will be deposited with the United States Postal Service by Express Mail, postage prepaid, in an envelope addressed to :

Mail Stop RCE / Technology Center 3700

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313 –1450

on the date below:

Date: Dec. 2, 2003

Inventor's Signature: _____



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302 W. Jackson Ave.
Houghton, MI 49931



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GERARD CANEBA 07-85
MARY ANN CANEBA
302 W. JACKER AVE.
HOUGHTON, MI 49931-2256

74-145-2496
911
7650365007

4398

Date 11/07/03

Pay to the Order of Commissioner for Patents \$ 375.00
Three hundred seventy five & 00/100 — Dollars



Wells Fargo Bank Michigan, N.A.
1303 College Ave.
Houghton, MI 49931
www.wellsfargo.com

Memo

RCE fee for App # 09/858,012
pack carrier

Mary Ann Caneba

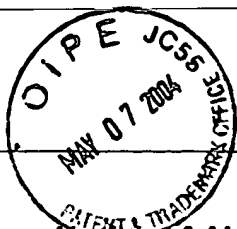
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DEPOSIT 11/14/03
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PATENT AND TRADEMARK OFFICE
13-10-0001
026311-12-0037 186
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mailed 4/06/2004

Notice of Abandonment

Application No.

09/858,012

Examiner

Stephen K. Cronin

Applicant(s)

CANEBA, MARY ANN

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 08 August 2003.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☒ A proposed reply was received on 07 November 2003, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.

(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.

The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

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Stephen K. Cronin
Primary Examiner
Art Unit: 3727

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.